IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

OP.No. 10540 of 2001(D)

PETITIONERS:

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1. T.M.GANGADHARAN,
ASSISTANT SUB INSPECTOR OF POLICE,
CHERUTHURUTHI POLICE STATION,
THRISSUR DISTRICT.

2. C.S.GOPALAKRISHNAN,
ASSISTANT SUB INSPECTOR OF P0LICE,
OLLUR POLICE STATION, THRISSUR DISTRICT.

3. K.J.PAUL,
ASSISTANT SUB INSPECTOR OF POLICE,
PAVARATHY POLICE STATION,
THRISSUR DISTRICT.

4. M.R.BHASKARAN,
ASSISTANT SUB INSPECTOR,
VARANTHARAPILLY POLICE STATION,
THRISSUR DISTRICT.

5. C.R.ANTONY,
ASSISTANT SUB INSPECTOR OF POLICE,
WEST POLICE STATION, THRISSUR DISTRICT.

6. K.D.JACOB,
ASSISTANT SUB INSPECTOR OF POLICE,
KODAKARA POLICE STATION,
THRISSUR DISTRICT.

7. K.V.GOPALAN,
ASSISTANT SUB INSPECTOR OF POLICE,
VADANAPPILLY POLICE STATION,
THRISSUR DISTRICT.

8. E.K.SUKUMARAN,
ASSISTANT SUB INSPECTOR OF POLICE,
PUDIKKAD POLICE STATION,
THRISSUR DISTRICT.

9. T.S.SIVARAMAN,
POLICE CONSTABLE,
VARANTHARAPPILLY POLICE STATION,
THRISSUR DISTRICT.

BY ADV. SMT.V.P.SEEMANDINI
SRI.M.J.JOHNSON

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. SUPERINTENDENT OF POLICE,
THRISSUR.

3. THE SUPERINTENDENT OF POLICE,
PALAKKAD.

BY GOVERNMENT PLEADER SRI.N.MANOJ KUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.10540 of 2001

APPENDIX

PETITIONERS' EXHIBITS:

EXHIBIT P1: COPY OF G.O.(P) NO.615/(138)/97 FIN. DT.28.6.1997.

EXHIBIT P2: COPY OF G.O.(P).NO.399/(178)/99 FIN. DT.5.2.1999.

EXHIBIT P3: COPY OF G.O.(P)NO.312/2000/(58)/FIN. DT.10.2.2000.

EXHIBIT P4: COPY OF REPRESENTATION DT.1.8.2000 SUBMITTED BY THE IST PETITIONER BEFORE THE SECOND RESPONDENT.

EXHIBIT P5: COPY OF REPRESENTATION DT.27.8.2000 SUBMITTED BY THE SECOND petitioner BEFORE THE SECOND RESPONDENT.

EXHIBIT P6: COPY OF REPRESENTATION DT.7.8.2000 SUBMITTED BY THE THIRD PETITIONER TO THE SECOND RESPONDENT.

EXHIBIT P7: COPY OF REPRESENTATION DT.8.8.2000 SUBMITTED BY THE FOURTH PETITIONER TO THE SECOND RESPONDENT.

EXHIBIT P8: COPY OF REPRESENTATION DT.30.8.2000 SUBMITTED BY THE 5TH PETITIONER TO THE SECOND RESPONDENT.

EXHIBIT P9: COPY OF REPRESENTATION DT.5.10.2000 SUBMITTED BY THE 6TH PETITIONER TO THE SECOND RESPONDENT.

EXHIBIT P10: COPY OF REPRESENTATION DT. APRIL, 2000 SUBMITTED BY THE 7TH petitioner TO THE SECOND RESPONDENT.

EXHIBIT P11: COPY OF REPRESENTATION DT.8.1.2001 SUIBMITTED BY THE 8TH petitioner TO THE SECOND RESPONDENT.

EXHIBIT P12: COPY OF REPRESENTATION DT.15.12.1998 SUBMITTED BY THE 9TH petitioner BEFORE THE SECOND RESPONDENT.

EXHIBIT P13: COPY OF REJECTION ORDER DT.30.5.2000 ISSUED BY THE THIRD RESPONDENT TO THE FIRST PETITIONER.

EXHIBIT P14: COPY OF REJECTION ORDER DT.17.4.2000 ISSUED BY THE THIRD RESPODNENT TO THE THIRD petitioner.

EXHIBIT P15: COPY OF REJECTION ORDER DT.17.4.2000 ISSUED BY THE THIRD RESPONDENT TO THE FOURTH PETITIONER.

EXHIBIT P16: COPY OF REJECTION ORDER DT.27.11.2000 ISSUED BY THE SECOND RESPONDENT TO THE 6TH petitioner.

EXHIBIT P17: COPY OF D.O. LETTER NO.1114/99/R DT.20.12.99 ISSUED BY THE SECOND RESPONDENT.

EXHIBIT P18: COPY OF D.O.1406/2000/R. DT.30.12.2000 ISSUED BY THE SECOND RESPONDENT.

EXHIBIT P19: COPY OF FIRST PAGE OF SERVICE BOOK OF MR.E.G.KARUNAKARAN.

EXHIBIT P20: COPY OF PAY SLIP OF MR.E.G.KARUNAKARAN FOR THE MONTH OF DECEMBER, 2000.

/TRUE COPY/

PA TO JUDGE

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.NO.10540 of 2001

Dated this the 16th day of July, 2007

JUDGMENT

The petitioners, who are policemen and were posted in different places, apparently could not exercise due options in terms of the relevant government orders for getting better emoluments on the basis of the pay revision orders and obtaining decisions of the Government. Under the normal circumstances, a Government employee is expected to exercise options and re-option as are provided, within the time limit, which may be extended by the Government under considerations of due and relevant factors. But, so far as uniformed personnel are concerned, particularly when their nature of duties and responsibilities, obviously, keep them away and without proper opportunity to get appropriate information and knowledge regarding their entitlement to better emoluments, I deem it proper to take a lenient view in their favour and let them have an opportunity to exercise their options and re-options as claimed by them, particularly when it is shown that non-exercise of options and re-options in time has resulted in grave prejudice and grossly disproportionate disparity in the drawals when compared to

similarly situated persons who had exercised their options and re-options within the prescribed time. It is not as if a government servant had not properly applied in proper form for his due entitlements which would turn round to deprive him of such emoluments.

2. In the aforesaid circumstances, this Writ Petition is allowed quashing Exhibits P13 to P16 and it is directed that the petitioners shall be conferred the benefit of Exhibits P2 and P3 orders by permitting them to exercise their re-options to continue in the pre-revised scale of pay as sought for by them. They would also be permitted to exercise re-options on the basis of the 1993 and 1997 pay revision orders. If the petitioners exercise such re-options as aforesaid within the outer limit of three months from the date of receipt of a copy of this judgment, they will be entitled to higher grade scale as admissible and if otherwise in order. The question as to whether the petitioners are entitled to the benefit from the date of the pay revision orders or from the date of actual exercise of re-options is left open to be governed by the decision of the apex court reported in ***State of Kerala and others v. Lissy Joseph M.*** (2006(1) KLJ 566). If there is no such proceedings as of now, the benefits would be released. If ultimately it requires necessary for the

Government to decide as to whether the option was exercised at the earlier point of time, the documents produced by the petitioners in this Writ petition shall be treated as guidance for arriving at such a decision.

THOTTATHIL B.RADHAKRISHNAN,
JUDGE

vgs.

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.NO.10540 OF 2001

J U D G M E N T

16.07.2007